

Message Text

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PAGE 01 STATE 198309
ORIGIN EB-03

INFO OCT-01 EUR-03 ISO-00 IO-03 MCT-02 /012 R

66011
DRAFTED BY:EB/OA/AVP:JSGRAVATT
APPROVED BY:EB/OA/AVP:AJWHITE
MC/T:JOHNSON
IO/TRC:DSCHIELE
-----112775 060355Z /11

R 050305Z AUG 78
FM SECSTATE WASHDC
INFO AMCONSUL MONTREAL 0000

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FOR US REP ICAO

FOLLOWING REPEAT BONN 14129 ACTION SECSTATE INFO TOKYO
LONDON ROME PARIS OTTAWA DATED AUG 02:

QTE: CONFIDENTIAL BONN 14129

PASS TO NSC AND DOT

E.O. 11652: GDS
TAGS: EAIR, CA, FR, IT, JA, UK
SUBJECT: BONN MEETING ON SUMMIT ANTI-HIJACKING
DECLARATION

1. SUMMARY. TWO DAY BONN MEETING REACHED SUCCESSFUL CONCLUSION WITH AGREEMENT ON TWO CRUCIAL ITEMS - PUTTING IN PLACE MECHANISM TO MANAGE RESPONSE TO SPECIFIC HIJACKING INCIDENTS AND INITIATING DIPLOMATIC ACTIVITY TO SOLICIT SUPPORT FROM ADDITIONAL GOVERNMENTS FOR BONN SUMMIT DECLARATION. END SUMMARY.

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2. THE PRINCIPAL ACHIEVEMENT OF THE AUGUST 1-2 BONN EXPERTS MEETING WAS THE DECISION TO CREATE A MECHANISM WHICH WOULD PROMPTLY MANAGE OUR RESPONSE TO ANY HIJACKING INCIDENT. THE MECHANISM AGREEDWOULD OPERATE AS FOLLOWS IN EVENT OF AN INCIDENT: IN THE IMMEDIATE AFTERMATH CONSULTATION AND COORDINATION

WOULD BE TRIGGERED BY THE GOVERNMENT OF THE PLANE'S OPERATOR IF ONE OF THE SEVEN, OR BY ANY OF THE SEVEN IF THE PLANE'S OPERATOR IS FROM A THIRD COUNTRY. THE TRIGGERING GOVERNMENT WOULD RETAIN RESPONSIBILITY FOR COORDINATING THE THREE STAGES OF FACT FINDING, DETERMINATION OF COMPLIANCE OR DEFAULT BY THE GOVERNMENT WHERE THE INCIDENT ENDED, AND IMPOSITION OF SANCTIONS. DECISIONS WOULD BE BY UNANIMITY, BUT, IF THAT WERE NOT POSSIBLE, EACH OF THE SEVEN RETAINS THE OPTION FOR INDEPENDENT ACTION. THE SANCTIONS IMPOSED WOULD INCLUDE THIRD, FOURTH, AND FIFTH FREEDOM RIGHTS; FIRST AND SECOND FREEDOMS MIGHT ALSO BE CONSIDERED.

3. ALL DELEGATIONS AGREED EACH SUMMIT GOVERNMENT WOULD DESIGNATE A CONTACT POINT FOR FUTURE INCIDENT MANAGEMENT. EACH WILL INDICATE TO OTHER PARTICIPANTS BEFORE AUGUST 31 WHAT THAT AGENCY WILL BE. DELEGATIONS ALSO UNDERTOOK TO TRANSMIT TO CANADIANS BY SEPTEMBER 15 COMMENTS ON MORE ELABORATE DRAFT GUIDELINES FOR PROCEDURES TO BE FOLLOWED DURING THREE STEPS OF CONSULTATIVE PROCESS. ALL AGREED THAT THE PROCESS MUST BE UNCOMPLICATED AND FLEXIBLE TO ENSURE ADEQUATE RESPONSE TO SPECIFIC CASES. IT WAS AGREED THAT

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THE SCOPE OF DECLARATION INCLUDED ALL INTERNATIONAL HIJACKINGS, BUT THE FOCUS OF THE DISCUSSION WAS ON INCIDENTS IN WHICH ONE OF THE SEVEN HAD A DIRECT INTEREST BECAUSE OF NATIONALITY OF AIRCRAFT OR PASSENGERS. IT WAS RECOGNIZED THAT ABSENCE OF SUCH DIRECT INTEREST WOULD BE A CIRCUMSTANCE TO CONSIDER DURING CONSULTATIONS ON HIJACKINGS WHICH INVOLVED ONLY NON-SUMMIT COUNTRIES.

4. THE DELEGATIONS ALSO AGREED ON A SCENARIO FOR FOLLOW ON DIPLOMATIC DEMARCHE IN NON-SUMMIT COUNTRIES. THE DIPLOMATIC ACTIVITY AGREED TO AD REFERENDUM CONSISTED OF THE FOLLOWING POINTS. THE FRG AMBASSADOR WOULD IN EACH CAPITAL CONSULT WITH HIS SIX COLLEGUES TO DETERMINE THE NATURE OF A JOINT APPROACH DEPENDING ON LOCAL CONDITIONS, THE FRG MIGHT SPEAK FOR ALL SEVEN, EACH MIGHT MAKE A DEMARCHE INDIVIDUALLY, OR A JOINT DEMARCHE MIGHT BE MADE. US CONFIRMED ITS WILLINGNESS TO TAKE LEAD IN ROC AS DID FRANCE IN ALBANIA, ITALY IN ANGOLA. JAPAN WILL CONSIDER WHAT CAN BE DONE IN CASE OF CAMBODIA. THE DEMARCHE WOULD INCLUDE BOTH

NOTIFICATION AND URGING OF SUPPORT FOR THE DECLARATION. INTERNATIONAL AND REGIONAL ORGANIZATIONS IN WHICH AT LEAST ONE OF THE SEVEN IS A MEMBER WILL BE NOTIFIED AFTER DELEGATIONS CONSULT. FRG WILL COMMUNICATE TEXT OF DECLARATION TO SECRETARIATS OF REGIONAL ORGANIZATIONS TO WHICH NONE OF SEVEN IS MEMBER.

25. IF LOCAL GOVERNMENT INDICATES DESIRE TO SUPPORT BONN DECLARATION ALL SUCH EXPRESSIONS WILL BE WELCOMED. BUT, IN RESPONSE TO INQUIRY, PREFERRED METHOD WILL BE VIA WRITTEN NOTIFICATION TO THE SEVEN PLUS A PUBLIC ANNOUNCEMENT (AS AUSTRIA HAS ALREADY DONE. THE DEMARCHE SHOULD BE MADE AT A POLITICAL LEVEL AND PREFERABLY BEFORE AUGUST 31.

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6. GOVERNMENTS THAT NOTIFY US OF THEIR SUPPORT FOR BONN DECLARATION WOULD BE ABLE TO PARTICIPATE IN MANAGEMENT OF HIJACKING INCIDENT WHERE THEIR INTERESTS WERE DIRECTLY INVOLVED. SUCH A COUNTRY COULD REQUEST ONE OF SEVEN TO INCLUDE IT IN THE CONSULTATION PROCESS IF THE PLANE HIJACKED OR A SIGNIFICANT NUMBER OF THE PASSENGERS WERE OF ITS NATIONALITY. SUCH A GOVERNMENT WOULD ALSO BE INCLUDED IN THAT PROCESS IF IT SEEMED LIKELY THAT ITS AIR SERVICES WOULD BE AFFECTED BY A DETERMINATION TO APPLY SANCTIONS.

7. BONN MEETING ALSO REVIEWED AND AGREED TO CONTINUE TO STUDY A NUMBER OF SENSITIVE LEGAL ISSUES. THE FRENCH RAISED THE ISSUE OF A POSSIBLE BREACH OF THE CHICAGO CONVENTION AND BILATERALS IF THE SEVEN APPLIED SANCTIONS. THE FRG TOOK THE POSITION THAT REBUS SIC STANTIBUS DOCTRINE WOULD APPLY, WHILE UK AND US ARGUED THAT AIR SAFETY PURPOSE OF CHICAGO CONVENTION WOULD PROVIDE JUSTIFICATION OF SANCTIONS ACTION. FRANCE, ITALY, AND JAPAN EXPRESSED HESITATION ABOUT THESE ARGUMENTS BUT AGREED TO STUDY THEM FURTHER. FRANCE ALSO PRESENTED GROUP WITH A WRITTEN LIST OF RELATED BUT UNRESOLVED LEGAL ISSUES.

8. SEVERAL DELEGATIONS FLATLY STATED THAT BONN DECLARATION WAS A STATEMENT OF POLITICAL WILL AT HIGHEST LEVEL AND THAT LACK OF AGREEMENT ON LEGAL ARGUMENTS WOULD NOT IMPEDE THEIR IMPLEMENTATION. NO DELEGATION DISAGREED.

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9. FINALLY, ALL AGREED TO INFORM BONN BY AUGUST 31 OF THEIR VIEWS ON DATE FOR SUBSEQUENT MEETING TO CONSIDER CANADIAN GUIDELINES, RESULTS OF DIPLOMATIC ACTIVITY, AND REVIEWS OF LEGAL ISSUES LEFT UNRESOLVED. IT WAS SUGGESTED THAT SUCH A MEETING MIGHT BE HELD IN OCTOBER.

COMMENT: FROM USG POINT OF VIEW, RESULTS OF BONN MEETING ARE EXTREMELY POSITIVE ALTHOUGH IT BROUGHT TO LIGHT VARIOUS SIGNIFICANT DIFFERENCES OF OPINION ABOUT LEGAL ISSUES, NON-SEVEN PARTICIPATION IN IMPLEMENTING MECHANISMS AND FORM AND SUBSTANCE OF THIRD COUNTRY SUPPORT. FRENCH, ITALIANS AND JAPANESE WERE IN GENERAL WITHOUT INSTRUCTIONS FROM THEIR MINISTERS AND INSISTED THAT MOST DECISIONS HAD TO BE AD REFERENDUM. GERMANS, CANADIANS AND OURSELVES CAME BACK REPEATEDLY DURING DISCUSSIONS TO POLITICAL SIGNIFICANCE OF BONN DECLARATION AND IMPORTANCE WHICH OUR GOVERNMENTS AT HIGHEST LEVELS ATTACHED TO PROMPT IMPLEMENTATION. ACHIEVEMENTS OF SESSION REFLECT CLOSE COLLABORATION AMONG THESE THREE DELEGATIONS WITH USEFUL SUPPORT FROM BRITISH, WHO, HOWEVER WERE ALSO LACKING IN EXPLICIT INSTRUCTIONS. GERMAN CHAIRMAN FLEISCHAUER WAS INSTRUMENTAL IN KEEPING CONFERENCE ON TRACK AND ITS SUCCESS IS IN LARGE PART RESULT OF HIS LEADERSHIP.

US DELEGATIONS BASIC GOAL WAS TO MAINTAIN MOMENTUM OF BONN SUMMIT INITIATIVE BY A) OBTAINING CONSENSUS THAT NO DETAILED LEGAL IMPLEMENTING DOCUMENTS ARE NECESSARY SINCE THE DECLARATION HAS IMMEDIATE EFFECT. B) BY OBTAINING AN AGREEMENT OF THE SCOPE AND NATURE OF FOLLOW ON DIPLOMATIC EFFORTS AND C) BY CREATING A STRUCTURE WHICH WOULD INCLUDE ALL THE SEVEN TO MONITOR HIJACKING INCIDENTS AND TO

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REVIEW AND COORDINATE THE EFFORTS TO EXPAND INTERNATIONAL SUPPORT FOR THE DECLARATION. ESSENTIALLY THESE GOALS WERE ALL ACHIEVED, NOT WITHSTANDING THE FACT THAT THERE WILL BE SOME SLOWING DOWN OF THE PROCESS BECAUSE OF LACK OF ADEQUATE INSTRUCTIONS BY SEVERAL PARTICIPANTS. MOST IMPORTANTLY, WE WILL NOT BE INIBITED FROM

TAKING JOINT EFFECTIVE ACTION IN THE AFTERMATH OF
A HIJACKING INCIDENT. WE WILL IN ALL PROBABILITY
BE MEETING AGAIN WITHIN THE NEXT TWO TO THREE
MONTHS AND AT THAT TIME WE SHOULD BE IN A POSITION
TO CLARIFY THE OUTSTANDING LEGAL ISSUES, REDEFINE
OUR INCIDENT MANAGEMENT CAPABILITY AND REVIEW THE
FORMAL AND INFORMAL EXPRESSIONS OF SUPPORT WHICH WE
HAVE RECEIVED FROM THIRD PARTIES.

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Message Attributes

Automatic Decaptoning: X
Capture Date: 01 jan 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: ANTIHIJACKING PROCEDURES, SUMMIT MEETINGS, DECLARATION
Control Number: n/a
Copy: SINGLE
Draft Date: 05 aug 1978
Decapton Date: 01 jan 1960
Decapton Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 20 Mar 2014
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1978STATE198309
Document Source: CORE
Document Unique ID: 00
Drafter: EB/OA/AVP:JSGRAVATT
Enclosure: n/a
Executive Order: GS
Errors: N/A
Expiration:
Film Number: D780322-0181
Format: TEL
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1978/newtext/t19780894/aaaadand.tel
Line Count: 234
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
Message ID: ac781d68-c288-dd11-92da-001cc4696bcc
Office: ORIGIN EB
Original Classification: CONFIDENTIAL
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 5
Previous Channel Indicators: n/a
Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: n/a
Reference: n/a
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 18 may 2005
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 1825006
Secure: OPEN
Status: NATIVE
Subject: BONN MEETING ON SUMMIT ANTI-HIJACKING DECLARATION
TAGS: EAIR, CA, FR, IT, JA, UK
To: MONTREAL
Type: TE
vdkvgwkey: odbc://SAS/SAS.dbo.SAS_Docs/ac781d68-c288-dd11-92da-001cc4696bcc
Review Markings:
Sheryl P. Walter
Declassified/Released
US Department of State
EO Systematic Review
20 Mar 2014
Markings: Sheryl P. Walter Declassified/Released US Department of State EO Systematic Review 20 Mar 2014